



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/987,760	11/15/2001	Kenneth Ebbs	80168-0127	7168

32658 7590 06/05/2007
HOGAN & HARTSON LLP
ONE TABOR CENTER, SUITE 1500
1200 SEVENTEEN ST.
DENVER, CO 80202

EXAMINER

TINKLER, MURIEL S

ART UNIT	PAPER NUMBER
----------	--------------

3691

MAIL DATE	DELIVERY MODE
-----------	---------------

06/05/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/987,760

Applicant(s)

EBBS ET AL.

Examiner

Muriel Tinkler

Art Unit

3691

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 May 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) 16-46 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

This Application has been reviewed. Claims 1-46 are pending. Claims 16-46 have been withdrawn. Claims 1-15 have been reviewed. The rejection(s) are as follows.

Election/Restrictions

1. Claims 16-46 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on May 11, 2007.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. The term "persistent objects" in claim 7 is a relative term which renders the claim indefinite. The term "persistent objects" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The Examiner will assume that the use of the terms "persistent objects" refers to objects that

are consistently used. Therefore, and further examination of this claim will be derived from consistently used objects.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claims 1-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Stanton et al. (US 7,188,158 B1), hereafter referred to as Stanton.

7. Regarding Claim 1, Stanton discloses: a flexible, extensible, customizable platform for ecommerce applications in figure 1; a customizable presentation framework for receiving data from a server and communicating the data to a plurality of extensible modules in the Abstract, column 1 (lines 15-32) and column 2 (lines 13-16); a plurality of extensible modules, each module communicatively connected to a software bus and the

customizable presentation framework in the column 2 (lines 33-48); and, a software bus communicatively couples to a plurality of services, the software bus enabling communication between the plurality of extensible modules and the plurality of services in the Abstract.

8. Regarding Claim 2, Stanton discloses the use of a server using J2EE in figure 7 (element 135) and column 8 (lines 55-67).

9. Regarding Claim 3, Stanton disclose the use of a Java Bean application in column 6 (line 40) through column 7 (line 26) and column 8 (lines 12-22).

10. Regarding Claim 4, Stanton discloses the use of a manager object for interfacing with the customizable presentation framework in column 10 (lines 16-25 and lines 42-56).

11. Regarding Claim 5, Stanton discloses the use of an auction and pricing module in column 10 (line 63) through column 11 (line 13).

12. Regarding Claim 6, Stanton discloses that each module further include object that have data utilized by the module, referred to as 'DOM' in the column 2 (line 60) through column 3 (line 56); and column 8 (lines 22-31).

13. Regarding Claim 7, Stanton discloses the relations of consistency to the objects in column 9 (lines 30-44).

14. Regarding Claim 8, Stanton discloses the use of removable or replaceable objects that interface with the software bus in the column 6 (line 41) through column 7 (line 3) and column 7 (line 62) through column 8 (line 3).

Art Unit: 3691

15. Regarding Claim 9, Stanton discloses that the removable object includes the use of a stateless session bean, or HTTP, in the Abstract.

16. Regarding Claim 10, Stanton disclose a plurality of services that include: reporting and exception in Description (par 40); security in figure 7 (element 350), column 1 (lines 56-67), and column 9 (lines 30-44), column 10 (lines 26-41 and lines 57-63) and column 13 (lines 32-35); and, access in figure 7 (element 345), column 4 (lines 18-31), column 6 (line 40) through column 7 (line 26) and column 10 (lines 16-25).

17. Regarding Claim 11, Stanton discloses that each extensible module may be packaged independently and are communicatively connected to the software bus in the Abstract, column 1 (lines 32-40) and column 2 (line 60) through column 3 (line 56).

18. Regarding Claim 12, Stanton discloses the use of a notification module in figure 1 (element 40) and column 11 (line 61) through column 12 (line 9).

19. Regarding Claim 13, Stanton discloses that each extensible module may depend on any other extensible module for communication with the software bus in column 6 (line 40) through column 7 (line 26).

20. Regarding Claim 14, Stanton discloses that the modules include: pricing and auction modules in column 10 (line 63) through column 11 (line 13); and, catalog functionality in column 7 (lines 49-61).

Claim Rejections - 35 USC § 103

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3691

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

22. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

23. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stanton in view of Mikurak (US 6,606,744 B1), hereafter referred to as Mikurak.

24. Regarding Claim 15, Stanton discloses the act of connecting module functionality via the Internet and these functions include catalog, pricing and auction. While Stanton does discuss the use of e-commerce in Description (par 46), Stanton does not specifically disclose the term 'OMS module'. Mikurak teaches the use of an OMS module in figure 2 (element 212) and column 16 (lines 9-15). Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Stanton to include OMS because, according to Mikurak, it allows the user to manage end-to-end supply chain information such as demand planning, order fulfillment, scheduling, inventory, etc. Also, according to Mikurak, the benefits of his invention along with the use of OMS, include: economies of scale are enabled, rationalization of procurement and inventory, rationalization of distribution and logistics facilities, and facilitation of the development of an industry-wide standard.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Muriel Tinkler whose telephone number is (571)272-7976. The examiner can normally be reached on Monday through Friday from 7:30 AM until 4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571)272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MT
May 18, 2007



HANI M. KAZIMI
PRIMARY EXAMINER